

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**EARL HAMMONDS,**

Petitioner,

v.

Civil Action No. **3:09cv549**

**GENE JOHNSON,**

Respondent.

**MEMORANDUM OPINION**

Petitioner, a Virginia state prisoner proceeding *pro se*, submitted a petition under 28 U.S.C. § 2254. In his petition, Petitioner challenges his conviction and sentence for robbery in the Circuit Court for the City of Chesapeake. On October 15, 2009, Respondent informed the Court that Petitioner had filed an identical § 2254 petition in the United States District Court for the Western District of Virginia (hereinafter “the Western District Court”). Respondent stated that he already had forwarded the pertinent state court records to the Western District Court. The pertinent statute permits Petitioner to challenge his conviction in either this District *or* the Western District Court, but not both. *See* 28 U.S.C. § 2241(d); *see also* 28 U.S.C. § 2244(a). Accordingly, by Memorandum Order entered on November 10, 2009, the Court stayed the present action and directed Respondent to notify this Court, within eleven (11) days after the final disposition of the Petitioner’s § 2254 petition in the Western District Court.

This Court’s review of the docket for the Western District Court reveals that the Western District Court granted Petitioner’s § 2254 petition on June 2, 2010. *Hammonds v. Johnson*, No. 7:09cv00365, 2010 WL 2232134, at \*1 (W.D. Va. June 2, 2010); *Hammonds v. Johnson*, No. 7:09cv00365, 2010 WL 2244389, at \*7 (W.D. Va. Apr. 29, 2010). Because it appeared that

Petitioner has been granted the relief he sought, by Memorandum Order entered on October 26, 2010, the Court directed Petitioner, within eleven (11) days of the date of entry thereof, to show good cause as to why the present action should not be dismissed as moot. More than eleven (11) days have passed and Petitioner has not responded. Accordingly, the action will be DISMISSED AS MOOT. The Court will deny a certificate of appealability.

An appropriate Order shall issue.

Dated: 1-10-11  
Richmond, Virginia

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James R. Spender  
Chief United States District Judge